IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2609 OF 1997

New Vijay Industries Ltd, .. Petitioner.
vs
Shri Shamrao Dhondiram Thorat, .. Respondent
Dr.Avinash Shivade, for the petitioner. (Absent)
Shri Pratap V.Patil, for the respondent.

CORAM : D.B.BHOSALE, J.

DATE : MARCH 18, 2005.

P.C.

1. This petition is directed against the Judgment and Order dated 21.2.1997 passed in Misc.Civil Appeal No.228 of 1991, by which the appeal was allowed and the order of the trial court dated 9.8.1991 passed below Exhibit-5 in Regular Civil Suit No.287 of 1991, was set aside. The trial Court had dismissed the application-Exhibit-5 filed by the respondent-plaintiff. This Court, while admitting the petition on 26.8.1997, passed the following order:

> "Rule. Interim order in terms of prayer (c) which runs as under :-
>
> "(c) Pending hearing and disposal of this

petition, the judgment and order at exhibit "H" may kindly be stayed."

. The learned counsel appearing for the petitioner states that the petitioner shall not disturb the possession of the respondent in respect of the two constructed residential rooms."

2. Mr Pratap Patil, learned counsel for the respondent, submits that his clients are not responding his letters and, therefore, he is not in a position to state as to whether Regular Civil Suit No.287 of 1991, from which the instant proceedings are arising, is still pending. Keeping that in view and considering the interim order passed by this Court on 26.8.1997, in my opinion, there is no point in keeping this petition pending any more and the ends of justice would be met by the following order.

(a) If the suit is still pending, the aforementioned interim order passed by this court on 26.8.1997, shall remain operative till disposal of the suit and in that case the trial Court shall endeavour to dispose of Regular Civil Suit No.287 of 1991 as expeditiously as possible and preferably within a period of one year from the date of receipt of this

order.

(b) It is needless to express that the trial Court shall decide the suit on merits in accordance with law and uninfluenced by the orders impugned in the present writ petition. The writ petition is accordingly disposed of.

(D.B.Bhosale, J.)